

SAN DIEGO HOUSING COMMISSION
POLICY

SUBJECT

EMPLOYEE RELATIONS POLICY

POLICY
NUMBER

103.000

EFFECTIVE
DATE

1-15-82

REVISED

3-19-82

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I. PURPOSE

- A. This Resolution Implements Chapter 10, Division 4, Title 1 of, the government Code of the State of California (Sections 3500 et seq.) captioned "Local Public Employee Organization", by providing orderly procedures for administration of employer-employee relations between the Commission and employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of State law, ordinances, resolutions and rules which establish and regulate, or which provide for other methods of administering employer-employee relations. This Policy is intended, instead, to strengthen merit and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the Commission. It is the purpose of this policy to provide procedures for meeting and conferring, or consulting as required by law, in good faith with recognized employee organizations regarding matters within the scope of representation which shall include all matters relating to employment conditions and employer/employee relations, including, but not limited to the wages, hours, and other terms and conditions of employment of employees in appropriate units and that are not preempted by federal or state law or the City Charter. However, nothing herein shall be construed to restrict any legal or inherent exclusive Commission rights with respect to matters of general legislative or managerial policy, which include among others: The exclusive right to determine the mission of its constituent organizational elements; set standards of service; determine the procedures and standards of selection for employment; direct its employees, to take disciplinary action; relieve its employees from duty because of lack of work or for other lawful reasons; maintain the efficiency of operations; determine the methods, means and personnel by which operations are to be conducted; take all necessary actions to carry out its mission in emergencies; and complete control and discretion over its organization and the technology of performing its work.

II. AUTHORITY

- A. Chapter 10, Division 4, Title 1 of the government Code of the State of California, as amended, provides for the promoting of improved employer-employee relations between public employers and their employees by establishing uniform and orderly methods of communication between employees and the public agencies by which they are employed.

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- B. Government Code Section 3507 empowers the Commission to adopt reasonable rules and regulations after consultation in good faith with representatives of its employee organizations for the administration of employer-employee relations.**

III. POLICY

- A. Except as otherwise provided or authorized by law, employees of the Commission shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation in accordance with this Resolution. Employees of the Commission also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the Commission. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the Commission or by any employee organization because of his or her exercise of these rights.**
- B. Management and Confidential employees as designated pursuant to this policy may not represent any employee organization which represents other employees of the Commission.**

IV. DEFINITIONS

As used in this Resolution, the definitions of the following terms shall govern the construction of this resolution.

- A. APPROPRIATE UNIT -- means a unit of employee classes of positions, established pursuant to Article II hereof.**
- B. COMMISSION -- means the SAN DIEGO HOUSING COMMISSION, and where appropriate herein, refers to any duly authorized representative as herein defined.**
- C. CONFIDENTIAL EMPLOYEE -- means an employee, who in the course of his or her duties, has access to information relative to the Commission's administration of employer-employee relations.**
- D. CONSULT/CONSULTATION IN GOOD FAITH -- means to communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions; and as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve an exchange of proposals and counter-proposals in an endeavor to reach agreement nor is it subject to paragraph VII.**

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- E. DAY -- means calendar day unless expressly stated otherwise.**
- F. EXECUTIVE DIRECTOR -- means the Executive Director of the Commission or his duly authorized representative.**
- G. MANAGEMENT EMPLOYEE -- means an employee having responsibility for formulating, administering or managing the implementation of Commission policies or programs. Management employees shall be designated by the Executive Director.**
- H. PROOF OF EMPLOYEE SUPPORT -- means:**
 - (1) An authorized card recently signed and personally dated by an employee, or
 - (2) A verified authorization petition or petitions. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee. The words "recently signed" shall mean within ninety (90) days prior to the filing of a petition.
- I. EXCLUSIVELY RECOGNIZED EMPLOYEE ORGANIZATION -- means an employee organization which has been formally acknowledged by the Commission as the sole employee organization that represents the employees in an appropriate representation unit pursuant to Paragraph V.**
- J. SUPERVISORY EMPLOYEE -- means an employee having authority, in the interest of the Commission to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. Supervisory Employees will be designated by the Executive Director.**

V. REPRESENTATION

A. Filing of Recognition Petition by Employee Organization

An employee organization that seeks to be formally acknowledged as the Exclusively Recognized Employee Organization representing the employees in an appropriate unit shall file a petition with the Executive Director containing the following information and documentation.

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1. Name and address of the employee organization.
2. Names and titles of its officers.
3. Names of employee organization representatives who are authorized to speak on behalf of the organization.
4. A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the Commission.
5. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national, or international organization and if so, the name and address of each such other organization.
6. Certified copies of the employee organization's constitution and by-laws, including the constitution and by-laws of any affiliated organization as defined in paragraph 5 above.
7. A designation of that person and their address, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.
8. A statement that the employee organization has no restriction on membership based on race, color, creed, sex, national origin, age or physical disability.
9. A copy of proof of employee support as herein defined establishing that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the Commission.
10. A request that the Commission formally acknowledge the petitioner as the Exclusively Recognized Organization representing the employees in an appropriate unit for the purpose of meeting and conferring in good faith.

The petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized representative(s) of the employee organization executing it.

B. Commission Response to Recognition Petition

Upon receipt of the Petition, the Executive Director shall determine whether:

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1. There has been compliance with the requirements of the Recognition Petition, and
2. The proposed representation unit is an appropriate unit in accordance with paragraph F.

If an affirmative determination is made by the Executive Director on the foregoing two matters, he shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and any employee organization previously recognized or having previously petitioned for recognition for any classification of employees included in the petition and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Executive Director shall offer to consult thereon with such petitioning employee organization, and if such determination thereafter remains unchanged, shall inform that organization of the reasons therefore in writing. The petitioning employee organization may appeal such determination in accordance with paragraph H of this resolution.

C. Open Period for Filing Challenging Petition

Within thirty (30) days of the date written notice was given to affected employees and employee organizations that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the exclusively recognized employee organization for the employees in the same or in an overlapping unit (one which corresponds with respect to some but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner as set forth in paragraph A. If such challenging petition seeks establishment of an overlapping unit, the Executive Director shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the Executive Director shall determine the appropriate unit or units in accordance with the standards in paragraph F. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Executive Director to amend their petitions to conform to such determination or to appeal such determination pursuant to paragraph H.

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D. Election Procedure

The Executive Director shall arrange for a secret ballot election to be conducted by a party agreed to by the Executive Director and the concerned employee organization(s), in accordance with this resolution. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this Policy shall be included on the ballot. The choice of "no organization" shall also be included on the ballot. Employees entitled to vote in such election shall be those employed, in regular permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness; vacation or other authorized leaves of absence, and who are employed by the Commission in the same unit on the date of the election. An employee organization shall be formally acknowledged as the Exclusively Recognized Organization for the designated appropriate unit following an election if that Employee Organization receives more than 50% of the valid votes cast in such an election. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.

There shall be no more than one valid election under this Resolution pursuant to any petition in a 12-month period affecting the same unit.

In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the State Conciliation Service.

Costs of conducting elections shall be borne in equal shares by the Commission and each employee organization appearing on the ballot.

E. Procedure for Decertification of Exclusively Recognized Employee Organization

A Decertification Petition alleging that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Executive Director following the first full year of recognition

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if no Memorandum of Understanding is in effect, or during the thirty (30) day period commencing one-hundred-eighty (180) days prior to the termination date of a Memorandum of Understanding. A Decertification Petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete.

1. The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
2. The name of the established appropriate unit and the incumbent Exclusively Recognized Employee Organization sought to be decertified as the representative of that unit.
3. An allegation that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.
4. Proof of employee support that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization.

An employee organization may, in satisfaction of the Decertification Petition requirements hereunder, file a Petition under this section in the form of a Recognition Petition that evidences proof of employee support of at least fifty (50) percent and otherwise conforms to the requirements of paragraph A.

The Executive Director shall initially determine whether the Petition has been filed in compliance with the applicable provision of this Policy. If his determination is in the negative, he shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization, and, if such determination thereafter remains unchanged, shall return such Petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with paragraph H. If the determination of the Executive Director is in the affirmative, or if his negative determination is reversed on appeal, he shall give written notice of such Decertification or Recognition Petition to the incumbent Exclusively Recognized Employee Organization and to unit employees.

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The Executive Director shall thereupon arrange for a secret ballot election to be held to determine the wishes of unit employees as to the question of decartificatfon, and, if a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with paragraph D.

F. Policy and Standards For Determinatfon of Appropriate Units

The Policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on:

1. The efficient operations of the Commission and its compatibility with the primary responsibility of the Commission and its employees to effectively and economically serve the public.
2. Provide employees with effective representation based on recognized community of interest considerations.

These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. Factors to be considered shall be:

1. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.
2. History of representation in the Commission and similar employment; except, however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.
3. Consistency with the organizational patterns of the Commission.
4. Number of employees and classifications, and the effect on the administration of employee/employer relations created by the fragmentation of classifications and the proliferation of bargaining units.
5. Effect on the classification structure and impact on the stability of the employee/employer relationship of dividing a single or related classification among two or more units.
6. Professional employees shall not be denied the right to be represented separately from non-professional employees.

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Notwithstanding the foregoing provisions of this Section, managerial, supervisory and confidential responsibilities, as defined in paragraph IV of this Resolution, are determining factors in establishing appropriate units hereunder, and therefore, managerial, supervisory and confidential employees may only be included in a unit consisting solely of managerial, supervisory or confidential employees respectively. Managerial, supervisory and confidential employees may not represent any employee organization which represents other employees.

The Executive Director shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this policy.

G. Procedure for Modification of Established Appropriate Units

Requests by employee organizations for modifications of established appropriate units may be considered by the Executive Director only during the period specified in paragraph E. Such requests shall be submitted in the form of a Recognition Petition, and, in addition to the requirement set forth in paragraph A, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in paragraph F. The Executive Director shall process such petitions as any other Recognition Petitions under this Policy.

The Executive Director may on his own motion propose during the period specified in paragraph E, that an established unit be modified. The Executive Director shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter, the Executive Director shall determine the composition of the appropriate unit or units in accordance with paragraph F, and shall give written notice of such determination to the affected employee organization. The Executive Director's determination may be appealed as provided in paragraph H. If a unit or units are modified, pursuant to the motion of the Executive Director, so as to create a new unit or units, employee organizations may thereafter file Recognition Petitions seeking to become the Exclusively Recognized Employee Organization for such new appropriate unit or units pursuant to paragraph A.

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H. Appeals

An employee organization aggrieved by an appropriate unit determination of the Executive Director under this Policy may appeal such determination to the Commission for final decision within fifteen (15) days of notice of the Executive Director's determination.

An employee organization aggrieved by a determination of the Executive Director that a Recognition Petition (paragraph A); Challenging Petition, (paragraph F) -- or employees aggrieved by a determination of the Executive Director that a Decertification Petition (paragraph F) -- has not been filed in compliance with the applicable provisions of this Policy, may within fifteen (15) days of notice of such determination appeal to the Commission for final decision.

Appeals to the Commission shall be filed in writing with the Commission and a copy thereof served on the Executive Director. The Commission shall commence to consider the matter within thirty (30) days of the filing of the appeal. Any decision of the Executive Director on the use of such procedure, and/or any decision of the Commission determining the substance of the dispute shall be final and binding.

VI. ADMINISTRATION

A. Submission of Current Information by Recognized Employee Organizations

All changes in the information filed with the Commission by an Exclusively Recognized Employee Organization under items 1 through 9 of its Recognition Petition, paragraph IV-A of this Resolution, shall be submitted in writing to the Executive Director within fourteen (14) days of such change.

B. Payroll Deductions on Behalf of Employee Organizations

Upon formal acknowledgement by the Commission of an Exclusively Recognized Employee Organization under this Resolution, only such Recognized Employee organization may be provided payroll deductions of membership dues and insurance premiums for plans sponsored by such organization upon written authorization of employees in the unit represented by the Exclusively Recognized Employee Organization on forms provided therefor by the Commission. The providing of such service to the Exclusively Recognized Employee Organization by the Commission shall be contingent upon and in accordance with the provisions of an expired Memorandum

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of Understanding and/or applicable administrative procedures. In the event that a Memorandum of Understanding is not in effect or in the event an employee organization participates in, supports, cooperates or encourages, directly or indirectly, any strike, sickout, or other total or partial stoppage or slowdown of work, the Commission may discontinue the payroll deduction of membership dues and insurance premiums for the Recognized Employee Organization or in the alternative make such payroll deductions subject to such administrative procedures as the Commission finds appropriate.

C. Employee Organization Activities -- Use of Commission Resources

Access to Commission work locations and the use of Commission paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in an unexpired Memorandum of Understanding and/or administrative procedures, shall be limited to activities pertaining directly to the employer/employee relationship and not such internal employee organization business as soliciting membership, campaigning for office, and organization meetings and elections, and shall not interfere with the efficiency, safety and security of Commission operations. In the event that a Memorandum of Understanding is not in effect or in the event that an employee organization participates in, cooperates or encourages directly or indirectly, any strike, sickout or other total or partial stoppage or slowdown of work, the Commission may deny access to Commission work locations and may deny the use of Commission paid time, organization and those representing them or in the alternative, make such access or use subject to such administrative procedures as the Commission finds appropriate.

D. Administrative Rules and Procedures

The Executive Director is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this Resolution after consultation with affected employee organizations.

VII. IMPASSE PROCEDURES

A. Initiation of Impasse Procedures

If the meet and confer process has reached an impasse, either party may initiate the impasse procedures by filing with the Commission a written request for an impasse meeting, together with a statement of

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its position on all disputed issues. An impasse meeting shall then be scheduled promptly by the Executive Director. The purpose of such meeting shall be:

1. To identify and specify in writing the issue or issues that remain in dispute.
2. To review the position of the parties in a final effort to resolve such disputed issue or issues; and,
3. If the dispute is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

B. Impasse Procedures

If no agreement is reached at an impasse meeting, impasses shall then be resolved by a determination of the Commission after a hearing on the merits of the dispute.

VIII. IMPLEMENTATION OF MEMORANDUM OF UNDERSTANDING

- A. When the meeting and conferring process is concluded between the Commission and an Exclusively Recognized Employee Organization, all agreed upon matters shall be incorporated in a written Memorandum of Understanding signed by the Management Team and representatives of the Exclusively Recognized Employee Organization.
- B. As to those matters within the authority of the Commission, the Memorandum of Understanding shall be submitted to the Commission for determination.

IX. MISCELLANEOUS PROVISIONS

A. Construction

This Resolution shall be administered and construed as follows:

1. Nothing in this Resolution shall be construed to deny any person, employee, organization, the Commission, or any authorized officer, body or other representative of the Commission, the rights, powers and authority granted by Federal or State law or City Charter provisions.

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2. This Resolution shall be interpreted so as to carry out its purposes as set forth in paragraph 1.
3. Nothing in this Resolution shall be construed as making the provisions of California Labor Code Section 923 applicable to Commission employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sickout or other total or partial stoppage or slowdown of work. In the event employees engage in such actions, it shall be the duty of the Executive Director to initiate dismissal proceedings against such employees, and shall not be granted amnesty nor reinstated except as a new employee hired through normal hiring practices. A dismissal imposed pursuant to this section shall not be appealable.

In the event of any strike or concerted action to withhold service from the Commission by an employee organization, or employees represented thereby, the Commission shall not grant any improvement in wages, hours or working conditions beyond those in effect or last offered to the striking organization or employees represented thereby by the Commission prior to the commencement of such strike or concerted activity, and is prohibited from considering the granting of any such improvement beyond that which may have been last offered by the Commission prior to the strike or concerted activity until the commencement of meet and confer negotiations in the next subsequent calendar year at the time regularly scheduled for commencement under adopted Commission policy governing such negotiations.

B. Severability

If any provision of this Resolution, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Resolution, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.